



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office
222 North 32nd Street
P.O. Box 36800

Billings, Montana 59107-6800

IN REPLY TO

Montana 0707-A
SDR 922-922-95-08
3165.3 (922.PL)

2205 997 480
CERTIFIED--RETURN RECEIPT REQUESTED

November 24, 1995

DECISION

Keith Carver
Crown Oil, Inc.
P.O. Box 1156
Baker, Montana 59313

SDR No 922-95-08

RESCINDED AND REMANDED

Crown Oil, Inc., (Crown) requested a State Director Review (SDR) with oral presentation of a September 18, 1995, Decision by the Miles City District Office (MCDO) terminating Federal lease Montana 0707-A pursuant to the regulations at 43 CFR 3107.2-2. The SDR request was telefaxed to this office on September 28, 1995, (Enclosure 1) and was considered timely filed in accordance with 43 CFR 3165.3(b). Crown also stated in its request that additional supporting arguments would be provided at the time of the SDR oral presentation.

This office received Crown's supporting arguments on October 12, 1995 (Enclosure 2). On November 2, 1995, Crown presented its arguments at an oral presentation before this office. Crown was represented by Lenny and Keith Carver. Crown contended that its lease should not have been terminated on September 15, 1995, as stated in the MCDO letter dated September 20, 1995 (Enclosure 3). Crown indicated that every effort had been made to be diligent in its attempt to establish production on this lease.

A review of the casefile indicates that on June 15, 1995, the MCDO ordered Crown, via certified mail, to commence reworking or drilling operations on the lease within 60 days upon receipt of the letter. The letter also required Crown, after commencement of lease operations to restore production, to conduct operations with "...reasonable diligence during the period of nonproduction." The file indicates that MCDO evidently accepted the subsequent operations as being timely initiated and continuous until September 11, 1995. On that date (Enclosure 4), the MCDO agreed that the operator could postpone further operations until September 15, 1995, due to a death in the Carver family. Since there was no operations being conducted on the 15th as determined by a site inspection, the MCDO faxed a letter to Crown informing them that the lease had expired.

While Crown admits that the rig was not working on September 15, 1995, it also states that it intended to continue operations on this lease. Crown indicated that there were two reasons why operations were not being conducted on September 15, 1995: 1) a death in the family, and 2) evaluating options with financial investors to determine the next course of action on the lease. Crown also contended that it had full intention to drill a new well on this lease. A Notice of Staking (NOS) for a new well on this lease had been filed by Crown with the MCDO on September 1, 1995. In summary, Crown felt that it had fully complied with the reasonable diligence requirement outlined in MCDO's June 15, 1995, Decision (Enclosure 5).

It is our determination that the submission and acceptance of an NOS by the MCDO, even though it was incomplete, can be considered as an intent to commence another operation and thus qualify as reasonable diligence. The June 27, 1994, BLM Handbook H-3107-1, "Continuation, Extension, or Renewal of Leases," defines reasonable diligence as:

"Operations that are conducted in such a manner as to be bona fide efforts which a prudent operator would be expected to make to restore production to the leasehold or communitized area. Generally, no more than 60 days can elapse between cessation of one operation and commencement of another in order to qualify as reasonable diligence."

Therefore, we hereby rescind the decision of the MCDO to terminate Federal oil and gas lease No. MTM-0707-A, effective September 15, 1995, and remand the case to the MCDO.

As stated by Crown at the oral presentation, the restoration of production on the Federal No. 1 well was unsuccessful; therefore, we hereby further conclude that Crown must plug and abandon this well prior to commencement of drilling a new well or reworking operations on the other existing well to restore production on the leasehold. Should Crown decide to drill a new well prior to or instead of reworking the other existing well on the lease, Crown must provide information requested by the MCDO for the application for permit to drill approval in a diligent manner and commence drilling a new well within a reasonable time as specified by the MCDO.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 6). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 3165.4(c), the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in this Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

/s/ Thomas P. Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Resources